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IN THE

Supreme Court of the United States

ALBERTO R. GONZALES, ATTORNEY GENERAL,
Petitioner,

v.

LEROY CARHART, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit

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BRIEF OF *AMICI CURIAE* UNITED STATES JUSTICE FOUNDATION, TRADITIONAL VALUES COALITION, CALIFORNIA REPUBLICAN ASSEMBLY, AND FORMER CALIFORNIA STATE SENATOR AND CURRENT CALIFORNIA STATE ASSEMBLYMAN RAYMOND S. HAYNES IN SUPPORT OF PETITIONER

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QUESTION PRESENTED

Whether, notwithstanding Congress's determination that a health exception was unnecessary to preserve the health of the mother, the Partial-Birth Abortion Ban Act of 2003 is invalid because it lacks a health exception or is otherwise unconstitutional on its face.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
TABLE OF AUTHORITIES	iv
STATEMENT OF INTEREST OF *AMICI*	1
SUMMARY OF ARGUMENT	3
ARGUMENT	3
A. If The Partial-Birth Method Is Unsafe, Why Is It Used?	3
1. *Partial-Birth Method vs. Other Late-Term Methods*	5
2. *Selling Fetal Parts*	7
B. Women's "Health" or Abortionists' Hypocrisy?	12
CONCLUSION	13
APPENDIX A—Transcript of Life Dynamics interview with "Kelly" (aka Dean Alberty)	1a
APPENDIX B—Transcript of March 8, 2000, 20/20 broadcast, "Parts for Sale; People Make Thousands of Dollars Off the Sale of Fetal Body Parts"	11a
APPENDIX C—Opening Lines—Price List [for fetal body parts]	20a
APPENDIX D—Fetal Harvesting Protocols [prepared by Dean Alberty]	24a
APPENDIX E—Excerpts from October 20, 1999, speech by Senator Bob Smith (N.H.) on floor of Senate	36a

TABLE OF AUTHORITIES

STATUTES	Page
Pub. L. 108-105, § 2, Nov. 5, 2003, 117 Stat. 1201	3
18 U.S.C. § 1531	3
LEGISLATIVE MATERIALS	
145 Cong.Rec. S12909-12920	6, 7
145 Cong.Rec. S12980	7
Fetal Tissue: Is It Being Sold in Violation of Federal Law?: Hearing Before the Subcomm. on Health and Environment of the House Comm. on Commerce, 106th Cong., 2d Sess. (March 9, 2000), Serial No. 106-104	*passim*
Modified Amendment No. 2324 to S. 1692	7
Partial-Birth Abortion Ban Act of 1999, S. 1692	5, 7

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STATEMENT OF INTEREST OF *AMICI* [1]

Amicus United States Justice Foundation is a 501(c)(3) non-profit, legal organization founded in 1979 that has

[1] Pursuant to Rule 37.6, this brief was not authored in whole or in part by counsel for a party, and no person or entity, other than *amici curiae*, has made a monetary contribution to the preparation or submission of this brief.

regularly provided testimony on federal and state legislation involving fundamental conservative principles, including the constitutional rights of people of faith and in the protection of the unborn.

Amicus TRADITIONAL VALUES COALITION is the largest, non-denominational, grassroots church lobby in America. TVC's membership of over 43,000 churches bridges racial and socio-economic barriers and includes most Christian denominations.

Amicus CALIFORNIA REPUBLICAN ASSEMBLY is California's oldest conservative Republican volunteer organization.

Amicus FORMER CALIFORNIA STATE SENATOR AND CURRENT CALIFORNIA STATE ASSEMBLYMAN RAYMOND S. HAYNES has represented 800,000 Californians in the California Legislature. He was elected in 1994. In 1996, former Senator Haynes was elected by the Senate Republican Caucus to serve as Republican Whip. In that position, he was responsible for generating Republican analyses for the thousands of bills that reach the Senate Floor. He also served as Chair of the Constitutional Amendments Committee, Vice Chair of the Senate Judiciary Committee, the Senate Health and Human Services Committee and the Public Employment and Retirement Committee, along with being a member of the Budget and Education Committees. In 2000, Senator Haynes served as the National Chairman of the American Legislative Exchange Council (ALEC), a national bipartisan organization of over 2,500 state legislators. Assemblyman Haynes represents his constituency in supporting the Attorney General's appeal to this Court.

SUMMARY OF ARGUMENT

The Court should reverse the decision below and uphold the validity of the Partial-Birth Abortion Ban Act of 2003.[2] In the course of determining that the partial-birth abortion method should be banned because it endangers women, individual members of Congress took into account evidence that the partial-birth abortion method opens up opportunities to illegally profit from the sale of fetal parts.

In doing so, Congress specifically came to the conclusion that a health exception for the mother in the ban on partial-birth abortions was not only not necessary, but completely inappropriate.

ARGUMENT

A. If The Partial-Birth Method Is Unsafe, Why Is It Used?

In passing the Partial-Birth Abortion Ban Act of 2003, Congress made the express finding that the partial-birth procedure "is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care."[3] As a result, no exception was made in the ban based on concerns for health of the mother because no potential harm to the mother exists that would necessitate this procedure.

Despite pious pronouncements from the abortion industry of the need for this procedure, all competent medical evidence shows there is no such need. The question is, why is the abortion industry putting up such a fight over this horrendous, dangerous procedure? The answer is greed.

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[2] 18 U.S.C.A. 1531

[3] Pub. L. 108-105, § 2, Nov. 5, 2003, 117 Stat. 1201, subpara. (13).

It must be emphasized that this particular procedure poses specific risks of harm to women, unique to this method:

> "(14) Pursuant to the testimony received during extensive legislative hearings during the 104th, 105th, 107th, and 108th Congresses, Congress finds and declares that:
>
> "(A) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure. Those risks include, among other things: An increase in a woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position, a procedure which, according to a leading obstetrics textbook, 'there are very few, if any, indications for * * * other than for delivery of a second twin'; and a risk of lacerations and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death."[4]

In the face of such evidence, one has to wonder—as members of Congress must have—*Why* would anyone select this method over other, safer procedures? As the old saying goes, *follow the money.* During the time period this law was being debated and analyzed, Congress heard evidence that the likely answer is this: In contrast to other, safer methods of late-term abortion, the partial-birth method affords the greatest opportunity to profit from the harvest and sale of fetal parts.

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[4] *Ibid.*, subpara. (14).

1. *Partial-Birth Method vs. Other Late-Term Methods.*

In a speech before the Senate on October 20, 1999, during debate over the Partial-Birth Abortion Ban Act of 1999,[5] Senator Bob Smith of New Hampshire described the various procedures used to terminate pregnancy in the second and third trimesters. He explained the "advantages" of the partial-birth method, *if* the primary goal is to harvest fetal parts:

> "Let us talk about dilation and evacuation, the so-called D&E, for a moment. This method, which is performed during months 4 to 6, 6 months, is particularly gruesome in that the doctor must tear out the baby parts with a pliers-like instrument. Literally disassembles it in the womb. It is horrible. No wonder they are angry when they get home and sick, sick before they start. Then the nurse gruesomely has to take all these body parts of this child who was torn apart in the womb and reassemble them in a pan to be sure they got it all. That is the first method.
>
> "I will just ask you to think, as we go through this, if you are in the business of selling body parts, how is that going to work with your buyer, if all the body parts are torn apart? I think you would say, well, probably it isn't going to be much good. There might be some tissue, but if you need intact organs, disassembling the organs ought to lead you to believe, reasonably, I think, they are probably not very good. If you need a liver and it is all chopped up in this procedure, it is probably not going to do you much good. So the D&E method is not real good for selling body parts. But that is one type of abortion.
>
> "The next is the saline abortion. This occurs after the first trimester. The abortionist injects a strong salt solution into the amniotic sac and, over a period of an hour, the baby is basically poisoned and burned to death in her mother's womb. That is the saline solution. So

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[5] S. 1692.

now I ask you again, if you are selling body parts, and the buyers want good body parts, good condition, that is not going to do a lot of good. That is not going to make your product very marketable. That is probably not a good method either.

"The next one is a little more grotesque, if you can imagine that. This is called the dig method, or digoxin method. It is called harpooning the whale inside the industry. You see, even in the industry they can't even be respectful to the child or even the woman in some cases, the mother. They use terms such as that, "harpooning the whale." The abortionist inserts a needle containing digoxin into the abdomen of the woman. In order to make sure the doctor hits the baby and not the woman, which would be lethal for her as well, he must watch to see the needle begin moving wildly. And when it does move wildly, he knows he has harpooned the whale and can push his needle all the way through and kill the baby. This abortion procedure is probably the least desired method for the body parts people because the baby's organs are, in essence, liquefied by this horrible poison. They are basically worthless to the body parts market.

"Those are three types of abortions. They have nothing to do with partial-birth abortion. I use these examples of three types of abortions to show you they basically make the sale of body parts worthless for the most part. Some tissue I am sure they can use.

"So where are they getting these things? Ask yourself, what have we been talking about all day? How can we get a good specimen, a baby whose organs are intact, a good cadaver? You can do it two ways. You could have a live birth and kill it, or you could have a partial-birth abortion, kill it that way, and damage only the brain so the rest of the body is good for research."[6]

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[6] 145 Cong. Rec. S12919, reproduced at Appendix E, pages 42a-44a. A long excerpt of Senator Smith's October 20, 1999, speech on the floor

2. *Selling Fetal Parts.*

In his speech on October 20, 1999, Senator Smith announced an intention to offer an amendment to the Partial-Birth Abortion Ban Act of 1999[7] that would have made it possible to find out whether live births and partial-birth abortions were being used for the sale of body parts.[8] He also called for an investigation into whether fetal parts were being sold in violation of federal law. Although Senator Smith's amendment did not pass[9], on March 9, 2000, the Committee on Commerce of the House of Representatives did hold a subcommittee hearing on the question of "Fetal Tissue: Is It Being Sold In Violation of Federal Law?"[10] In the course of that hearing, numerous documents were put into the record as evidence that fetal tissue from aborted fetuses was indeed being sold, and at a handsome profit.

Reproduced in the appendix here are several documents that were presented at the March 2000 House Hearing. Appendix A, pages 1a-10a, is the transcript of an interview between Dzintra Tuttle, of Life Dynamics, Incorporated, and "Kelly," the pseudonym of a person who worked for Anatomic Gift Foundation and Opening Lines, two companies

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of the Senate, 145 Cong. Rec. S12909-12920, is reproduced at Appendix E, pages 36a-59a.

[7] S. 1692.

[8] Modified Amendment No. 2324, to provide for certain disclosures and limitations with respect to the transference of human fetal tissue.

[9] It lost 51 to 46, Vote No. 338, 145 Cong. Rec. S12980. That was on October 21, 1999, the same day the Senate passed the Partial-Birth Abortion Ban Act of 1999 (S. 1692).

[10] *Fetal Tissue: Is It Being Sold in Violation of Federal Law?*: Hearing Before the Subcomm. on Health and Environment of the House Comm. on Commerce, 106th Cong., 2d Sess. (March 9, 2000)[hereafter "March 2000 House Hearing."] The entire transcript of the March 2000 House Hearing, Serial No. 106-104 is available at http://origin.www.gpoaccess.gov/chearings/search.html.

engaged in the harvesting and selling of parts from aborted fetuses.[11] In the Life Dynamics interview, "Kelly" explained that in order to obtain the specimens needed by AGF's or Opening Lines' customers, the abortion doctor would alter the procedure in order to provide a superior specimen:

> "Zantra: Do you think the doctor ever altered the procedures to get you the type of specimens you needed for that day?
>
> "Kelly: Yes, every day. When we would go in to do procedures, the doctor would come in, along with his nurse, and they would want to see the list of what we were going to procure and what we needed. Then he would basically get us the most complete, intact specimen that he could get us. And what I mean by that is that all the limbs, the arms, the head, the chest cavity, were never invaded. They were all completely intact. Sometimes if the fetus was—appeared to be dead, but when you opened up the chest cavity you do see the heart beating, but they'll be no arms or legs moving.
>
> "Zantra: So they were intentionally altering their type of procedure to give you an intact specimen, even if that meant giving you a live specimen?
>
> "Kelly: That's correct. Just so we could sell better tissue and more tissue out. So that our company would make more money. And at the end of the year, they would actually give the clinic back more money since we got good specimens."[12]

Kelly also described instances in which women had changed their minds about going through with an abortion—

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[11] Appendix A is taken from March 2000 House Hearing, at 159-174. "Kelly" had asked for anonymity at the time of the interview in 1999. Later, "Kelly" went public and identified himself as Lawrence Dean Alberty, Jr.; he was one of the witnesses who testified at the March 2000 House Hearing.

[12] Appendix A, p. 6a.

when they could have safely continued with their pregnancies—but the doctor and the clinic staff pressured them into submitting to the abortion anyway.[13] Obviously, if a woman with a particularly good "specimen" does not go through with her abortion, the clinic not only loses the profit from doing the procedure, but the fetal specimen is lost as well.

On the evening of March 8, 2000, the ABC News show 20/20 presented an exposé entitled, "Parts for Sale; People Make Thousands of Dollars Off the Sale of Fetal Body Parts." Throughout the course of the March 2000 House Hearing, the 20/20 broadcast was mentioned again and again by various Congressmen. A transcript of the 20/20 show was placed into the hearing transcript and is reproduced here at Appendix B pages 11a-19a.[14] Chris Wallace of 20/20 interviewed Dean Alberty, the person who had used the pseudonym "Kelly" in the Life Dynamics interview:

> "Wallace: (VO) Dean Alberty worked for two companies that acted as middle men, getting the fetuses from abortion clinics and shipping tissue to researchers.
>
> "Mr. Alberty: When I got the fetus, I'd already have a checklist telling me what specific organs they were looking for.
>
> "Wallace: (VO) The law allows tissue companies to recover their costs. This government agency charges $100 per shipment. But take a look at what one private company is demanding. Opening Lines put out this price list: $325 for a spinal cord, $550 for a reproductive organ, $999 for a brain. Alberty says he helped put together the price list.
>
> "Is there any way to justify these prices?

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[13] Appendix A, p. 9a.

[14] Taken from March 2000 House Hearing, at 198-203.

"Mr. Alberty: No. There is not.

"Wallace: So what does this price represent?

"Mr. Alberty: That represents greed."[15]

The 20/20 interview made reference to a price list for aborted fetal parts. That price list was inserted into the hearing transcript and is reproduced here at Appendix C, pages 20a-21a.[16]

Also inserted into the hearing transcript was a form letter from Opening Lines touting its services as "your new source for quality fetal tissue." As noted in that letter:

> "OPENING LINES was formed to maximize the utilization of the fresh fetal tissue we process. Our daily average case volume exceeds 1500 and we serve clinics across the nation. This means we can provide you with the exact tissue to meet your needs.
>
> "OPENING LINES obtains and maintains appropriate confidential consent and basic medical histories for fetal tissue donation . . .
>
> "We have simplified the process for procuring fetal tissue. We DO NOT require a copy of your IRB approval or summary of your research and you ARE NOT required to site [sic] OPENING LINES as the source of tissue when you publish your work (we believe in word of mouth advertising; if you like our services please tell your colleagues and if you do not[,] notify us and we will do our best to correct the problem)."[17]

During the course of his testimony before the House subcommittee on March 9, 2000, Mr. Alberty was questioned about "protocols" he had written for the purpose of training

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[15] Appendix B, p. 13a-14a, March 2000 House Hearing, at 198-203.

[16] Taken from March 2000 House Hearing, at 83-84.

[17] Appendix C, pages 22a-23a, March 2000 House Hearing, at 85.

others in fetal recovery procedures.[18] These protocols provide detailed instructions not only in how to cut away and remove fetal eyes, livers, lungs, glands, and other body parts, but also specific instructions on packing and shipping. Donor specifications are listed at 8 to 22+ weeks' gestation. With regard to the recovery of an intact fetus, the protocol specifies: "Make sure Fetus is not alive."[19]

A *WORLD Magazine* article by Lynn Vincent, dated October 23, 1999, entitled "The harvest of abortion" was also placed into the hearing transcript.[20] The *WORLD* article discussed the more than 50 actual dissection orders or "protocols" obtained by Life Dynamics:

> "The protocols detail how requesting researchers want baby parts cut and shipped: 'Dissect fetal liver and thymus and occasional lymph node from fetal cadaver within 10 (minutes of death).' 'Arms and legs need not be intact.' 'Intact brains preferred, but large pieces of brain may be usable.' Most researchers want parts harvested from fetuses 18 to 24 weeks in utero, which means the largest babies lying in lab pans awaiting a blade would stretch 10 to 12 inches-from your wrist to your elbow. Some researchers append a subtle 'plus' sign to the '24,' indicating that parts from late-term babies would be acceptable. Many stipulate 'no abnormalities,' meaning the baby in question should have been healthy prior to having her life cut short by 'intrauterine cranial compression' (crushing of the skull). On one protocol dated 1991, August J. Sick of San Diego-based Invitrogen Corporation requested kidneys, hearts, lungs, livers, spleens, pancreases, skin, smooth muscle, skeletal muscle and brains from unborn babies

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[18] Appendix D, 24a-35a, taken from March 2000 House Hearing, at 94-107.

[19] Ibid. at 34a, March 2000 House Hearing, at 104.

[20] March 2000 House Hearing, at 220-226; available online at: http://www.worldmag.com/articles/3257.

> of 15-22 weeks gestational age. Mr. Sick wanted '5-10 samples of each per month.' WORLD called Mr. Sick to verify that he had indeed ordered the parts. (He had.) When WORLD pointed out that Invitrogen's request of up to 100 samples per month would mean a lot of dead babies, Mr. Sick-sounding quite shaken-quickly aborted the interview."[21]

B. Women's "Health" or Abortionists' Hypocrisy?

Ultimately, the March 2000, House Hearing was inconclusive on the question presented—whether fetal tissue was indeed being sold in direct violation of federal law. In his closing remarks, Congressman Coburn stated:

> "I think what we've seen is we've seen some credible witnesses and some whose story is not consistent. It is my hope that we can work with the minority to try to discern what is and is not worth pursuing on this and move in a way where we can find the truth for the American public. It is my deep concern that somebody has made money selling baby parts. To me that is abhorrent. I believe that is abhorrent to every Member of this body."[22]

The evidence reviewed by the Committee concerning harvesting and selling of fetal parts was no doubt repugnant to many members of Congress. And that evidence only substantiated the charge made by Senator Bob Smith in his October 20, 1999, speech: "So where are they getting these things? Ask yourself, what have we been talking about all day? How can we get a good specimen, a baby whose organs are intact, a good cadaver? You can do it two ways. You could have a live birth and kill it, or you could have a partial-

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[21] *Ibid.*

[22] March 2000 House Hearing, at 324.

birth abortion, kill it that way, and damage only the brain so the rest of the body is good for research."[23]

While it may not have been provable to the same degree as the findings that this method can be harmful to women, many in Congress were nevertheless convinced that there *is* an on-going black market in fetal parts, and the partial birth abortion method just happens to be the best means to exploit it. It was undoubtedly enough evidence to cast doubt on the sincerity of those in the abortion industry who claim that women "need" this procedure for "health reasons." In sum, this evidence discloses a certain hypocrisy on the part of those in the abortion industry who insist they are only thinking of the *woman's* health in demanding that the partial-birth procedure must remain available. Certainly some members of Congress considered this hypocrisy when they voted to pass a partial-birth abortion ban *without* a health exception.

CONCLUSION

This Court should reverse the decision below and uphold the validity of the Partial-Birth Abortion Ban Act of 2003.

Respectfully submitted,

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[23] Appendix E, page 44a, 145 Cong. Rec. S12919.

APPENDIX

APPENDIX A

LIFE DYNAMICS
1999

TRANSCRIBED FROM TAPES FOR:
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1755 MASSACHUSETTS AVENUE, N.W.
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[160] LIFE DYNAMICS - MAY

MARK: Okay, we're back

You know, one of the things that Life Dynamics does is we do a lot of spying and infiltration of the abortion industry, kind of agent provocateur type things. And sometimes people question why we do that. Even Pro-Life people have been critical of us for doing that sort of thing.

But the reality is, if you want to beat an opponent, you better know what they're all about. We get information directly out of the abortion industry that we can't get anywhere else and that we can then use to go after them with.

You're about to see an interview with one of our spies. This woman came to us quite some tine ago, very upset over same things that she had seen in her job in the abortion industry. I want to tell you now that this is a very difficult interview to watch, because you're going to hear things that you probably didn't know were going on, descriptions of—it's not so much gory as it is just kind of heartbreaking and wrenching to think that our society has come to this point.

[161] Zantra did this interview about a month ago. And it was very difficult for her to do. And again, it's going to be very difficult for you to listen to. But I think if you're going to be serious about this, if we're going to be serious about closing

down these death camps—and that's what they are, they are death camps, this is a holocaust—and if this interview doesn't convince you of that, you're probably not convincable.

So, be forewarned. It's not pretty. But it's something that we all need to listen to.

ZANTRA: To start with, just so that everybody understands, you're real name is not Kelly; is that correct?

KELLY: That's correct.

ZANTRA: Why don't you start by telling us how long did you work for the abortion clinic?

KELLY: Well, for one, I did not work for an abortion clinic as an employee. I worked for an outside source, hired with a team, to go in and dissect and procure fetal tissue, basically to dissect tissue for high-quality sales.

ZANTRA: Okay. So you were actually working for an outside company that was gathering [162] fetal tissue, but you were doing this inside the clinics?

KELLY: Right. But we were never employees of the abortion clinic. What we did was we would have a contract with an abortion clinic that would allow a certain number of us to go in there on certain days, and we would procure fetal tissue for research. We would get a generated list each day to tell us what tissue researchers, pharmaceutical companies, universities were looking for. Then we would go and look at the patient charts.

We had to screen out all the ones we didn't want. What I mean by that is that we would not use anything that had STD's or fetal anomalies. These had to be the most perfect specimens we could give the researchers for the best value that we could sell for.

ZANTRA: What gestational ages were you talking about fox these babies?

KELLY: We would look starting at seven weeks all the way up to 30-plus

ZANTRA: All the way to over 30 weeks gestation, you were harvesting parts from aborted babies?

[163] KELLY: That's correct. That's correct. And we—we were looking anywhere from eyes, livers, brains, thymuses, and especially cardiac blood, cord blood, the blood from the liver, even blood from the limbs that we would get from the veins.

ZANTRA: Now, just a minute ago you said that you had to screen out all the babies with abnormalities.

KELLY: Right.

ZANTRA: But when you're talking about babies at 30 weeks gestation, wouldn't the majority of these abortions be for abnormalities?

KELLY: No. I mean there was only probably like 10 percent that had abnormalities. The zest were very healthy donors. And how we knew that they were healthy was, one, we would check to see, if they—the mother had any prenatal care that suggested she had birth defects, if that was the reason why she was there to have the abortion. But 95 percent of the time, no, it was just that she was there to get rid of the baby.

ZANTRA: So how many of the later terms, the ones that are around 30 weeks or so, would you see in a week?

[164] KELLY: Probably an estimate of 30 or 40 a week.

ZANTRA: Of the late terms?

KELLY: Of the late terms.

ZANTRA: Of the late terms.

KELLY: That's anywhere from 22 weeks all the way up to 30 weeks-plus.

ZANTRA: Let's talk a bit about how you worked with the researchers. You said it was universities and pharmaceutical companies.

KELLY: That's correct. And also private contractors who would—we would sell them the tissue. They would in turn collect the sales and then, in turn, sell those sales to other universities and to other researchers. So basically there was a high demand every week from universities and pharmaceutical companies throughout the world just to buy fetal tissue.

ZANTRA: How did you get these specimens to the researchers?

KELLY: Every researcher that we sold to had their own private way they wanted it shipped, whether it was UPS, FedEx, Airborne or a special courier that they would just—we would take the specimen in a box to the airport and put [165] it on as regular cargo, and they would pick it up at their destination.

ZANTRA Do you think these shipping companies knew that they were transporting aborted baby parts?

KELLY: No. No. All they knew was that it was just human sales, when it actually wasn't sales. We're talking sometimes it would be a completely intact fetus or it might be a batch of eyes or 30 to 40 livers going out that day or thymuses, whatever it may be, there was mass quantities of it going out.

ZANTRA: The babies at the clinic, the aborted ones that you didn't take parts out of or you didn't ship the entire body, how did you dispose of them?

KELLY: If they could, we would usually put it down the garbage disposal, along with the placenta and the leftover blood material. And that would just get down the drain.

If it was large enough and wouldn't go down the drain, they had a special freezer, and we would freeze all the—it

may be a total of 60 to 70 fetuses in one box, frozen in a freezer, to be picked up at another time for incineration.

[166] ZANTRA: How is it that you came to be talking to Life Dynamics? I mean you're working in this abortion clinic, gathering fetal parts. It seems like we'd be the last people you'd want to talk to.

KELLY: Well, when I was working, there was an incident that came my way, and my staff's way, that there was a set of twins, at 24 weeks gestation, brought back to us. These twins were both in pan and they were both alive. Meaning that there was maybe just a couple of nicks from the tongs that had pulled them out. But these fetuses, were moving and gasping for air.

And the doctor came back and basically looked at us and said, got you some good specimens, twins. And I looked at him and said, there's something wrong here. They are moving. I don't do this. This is not in my contract.

ZANTRA: So they just brought you these babies and said, here, do whatever you want with them?

KELLY: That's correct. And I told him I would not be any part of extinguishing their lives. So he basically got a bottle of sterile water and poured it in the pans until the fluid [167] ran up to their mouths and nose and basically let them drown themselves, which didn't take very long.

And I did not stay in the room to watch that. I left the room, because I would not watch those fetuses moving.

ZANTRA: So he basically—I mean not basically—what he did do was kill those babies outside the mother's wound?

KELLY: That's correct.

ZANTRA: After they'd been born?

KELLY: That's correct. And then we, staff, did procure fetal tissue from those, under protest.

ZANTRA: Do you know how long, it took those babies to die?

KELLY: No, because we left the room. I would not watch. And that's basically when I decided that it was wrong. Basically, I—I did not want to be there when that happened. Because after that incident, there was more times that we had live births come back to us.

ZANTRA: Really?

KELLY: Sixteen weeks, all the way up to sometimes even 30 weeks. And the doctor would either break the neck or take a pair of tongs and [168] basically beat the fetus until it was dead.

ZANTRA: Do you think the doctor ever altered the procedures to get you the type of specimens you needed for that day?

KELLY: Yes, every day. When we would go in to do procedures, the doctor would come in, along with his nurse, and they would want to see the list of what we were going to procure and what we needed. Then he would basically get us the most complete, intact specimen that he could get us.

And what I mean by that is that all the limbs, the arms, the head, the chest cavity, were never invaded. They were all completely intact, Sometimes if the fetus was—appeared to be dead, but when you opened up the chest cavity you do see the heart beating, but there'll no arms or legs moving.

ZANTRA: So they were intentionally altering their type, of procedure to give you an intact specimen, even if that meant giving you a live specimen?

KELLY: That's correct. Just so we could sell better tissue and more tissue out. So that our company would make more money. And at the end of the year, they would actually give the [169] clinic back more money since we got good specimens.

ZANTRA: So they were basically trying to keep your company's business and maybe get a little extra out of your company, and that's why they were changing the procedures for you?

KELLY: Yes, that's correct. When you have a second trimester abortion, you have to have a certain number of lamb cells placed in the vagina to dilate the cervix. And that way, when you go in, after your third-day procedure, and they would change out these lambs on the third day, they would pull the lambs, the fetus would come out. But in the motel rooms, sometimes these lambs would move.

ZANTRA: What are these lambs you're talking about?

KELLY: They're a dilator. They're made up of some type of seaweed. They're hard when they go in and they dilate you, just like you're giving birth. But when they sent these women to the motel room, because they had to stay in town, sometimes these lambs would fall out and she would go into labor and the fetus would expel itself out.

ZANTRA: So these women were basically having a two-day procedure. And the first day, they were dilated with the laminaria.

[170] KELLY: Lambs—Lambs.

ZANTRA: And then they'd go to this hotel overnight, expecting to come back for their abortion the following day?

KELLY: Right. Right.

ZANTRA: But, instead, they'd go into labor?

KELLY: Right.

ZANTRA: In the hotel room?

KELLY: Right. And then they would give us a call, to the nurse, and the nurse would call the doctor. And they would go to the motel room and pick up the woman and the fetus.

ZANTRA: Were these fetuses coming out alive?

KELLY: Yes, they were coming out alive. And they would bring back the fetus in a bucket, along with the placenta and the mother. They had to get re-suctioned. So they brought her back to the clinic. And that's when they would give us a call during the night and say, okay, we've got a couple of specimens here for you or we've got one specimen.

We would then go, and the specimen would be in a bucket. And then we would empty it [171] out. And when we knew that it was alive is when you open up the chest cavity, the heart was still beating. Sometimes you could even see movement in the bucket. They had to come out alive. There was no way for those fetuses to be coming out dead. They were all alive.

And how they maintained them or did they kill them in there was anybody's guess. My guess is that they had to kill them in the bucket or put them in a corner and let them die slowly.

ZANTRA: Because the doctor had seen how strongly you reacted to seeing them killed in front of you?

KELLY: That's correct. That's correct.

ZANTRA: So he made—

KELLY: He made sure he did not repeat those instances. But they kept happening anyway. And that's how I came to call you guys.

ZANTRA: How did they treat the women who were coming in for abortions?

KELLY: Well, that would basically depend on the woman and her attitude. The majority of the time it was not very pleasant. There was an episode a couple of times that we would see she [172] wanted to have an abortion one day, but the second day she came back, and even though she had the

lamb cells placed in her, she wanted to keep the baby, but they would not—they would not do that. They would talk her out of it, saying, well, we've already placed these lambs. You're going to have the abortion.

ZANTRA: Did the clinic know she could have been taken to a hospital and they would have basically been able to—

KELLY: Changed her—yes.

ZANTRA: —help her continue the pregnancy?

KELLY: Yeah. She was never given that option. She was always—the patient was always told by the doctor and all of the staff gathered around, pressuring her to have that abortion.

ZANTRA: Before they even began the procedures, did you see any sort of coercing the women into that?

KELLY: Well, when you—when you're talking about coercing, you'd have to talk about they're giving an IV sedation on the second day, the day that they're going to have the procedure. [173] And the IV sedation kind of puts them into what I call a Nyquil nap. I mean they're just basically drowsy. They're not really thinking for themselves.

So that's basically how they were coerced into having a procedure, when you could blatantly hear them in the halls changing their mind, telling them they didn't want to have it done. But they were forced into having it done by giving more sedation.

ZANTRA: So they would withdraw their consent, but then the clinic would drug them and—

KELLY: That's correct.

ZANTRA: —and continue the procedure?

KELLY: That's correct.

ZANTRA: What about, you mentioned in a previous conversation the attitude of a lot of the lesbian employees?

KELLY: Right. That kind of had a lot of our staff concerned. Once the patient was unconscious, lying on a table, some of the women would make comments basically of the genitalia area—nice tatoo, or this one looks really nice, what do you think?

[174] ZANTRA: So they were just being generally degrading to the women?

KELLY: Very degrading to the women that were in there.

ZANTRA: And this is while the women were unconscious?

KELLY: Right, while they're unconscious, while they didn't know what was going on.

ZANTRA: So these employees are walking around, looking at those patients?

KELLY: Right. They were walking around, talking to them. There has even been episodes where phone numbers were taken off the charts and people would give them a call weeks down the road, asking them out for drinks. It was not uncommon for women or men at the clinic to hit on these women for dates.

(Commercial.)

MARK: Welcome back.

In the last segment, I told you we'd be having a special guest join us to discuss the Kelly interview. Before I introduce him, I want to take a moment to make sure you appreciate what an incredible situation this is. You know, over the

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APPENDIX B

Document 5 of 11.

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ABC NEWS

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SHOW: 20/20 WEDNESDAY (10:00 PM ET)

March 8, 2000, Wednesday

TYPE: Profile

LENGTH: 2170 words

HEADLINE: PARTS FOR SALE; PEOPLE MAKE THOUSANDS OF DOLLARS OFF THE SALE OF FETAL BODY PARTS

ANCHORS: CONNIE CHUNG; CHARLES GIBSON

REPORTERS: CHRIS WALLACE

BODY:
PARTS FOR SALE

CONNIE CHUNG, co-host:

Now, a story we guarantee most of you have never heard before. The subject is highly charged and controversial. Behind the scenes of some promising medical research, big money is being made from the sale of fetal body parts. Chief correspondent Chris Wallace has been investigating this story. Chris:

CHRIS WALLACE reporting.

Connie, our hidden camera investigation has found evidence that some businessmen are trafficking in fetuses. One has even put out a price list. And there are claims that some are selling fetuses that women have not even given for research. Here's what can happen when something that is supposed to

be used to spur medical breakthroughs is used instead to make money.

(VO) It's a moment too painful to imagine—after getting radiation treatments for cancer, Cindy Smith, a mother of five, learned she was pregnant with twins.

[199] Ms. CINDY SMITH: They basically told me that my children were dying inside me, that I was the only thing keeping them living.

WALLACE: (VO) Cindy decided to end her pregnancy. She says her only comfort came from signing this consent form, giving the fetuses to medical researchers, looking into cures for terrible diseases.

Ms. SMITH: What I wanted to do was make something positive out of a horrible situation.

WALLACE. (VO) What she didn't know is that this man would be making money off her twins.

Dr. MILES JONES: If you have a guy that's desperate for, let's say, a heart, then he'll pay you whatever you ask.

WALLACE: (VO) His name is Dr. Miles Jones, and he says he can make big bucks selling human fetuses to researchers.

Dr. JONES: Let's say someone needs feet. Feet are real common. They are not hard to get.

WALLACE: A 20/20 hidden camera investigation has found a thriving industry in which aborted fetuses women donate to help medical research are being marketed for hundreds, even thousands of dollars. We showed what we found undercover to Arthur Caplan, director of the University of Pennsylvania Center for Bioethics.

Mr. ARTHUR CAPLAN: That's trading in body parts, there's no doubt about it.

WALLACE: Turning human fetuses into a commodity.

Mr. CAPLAN: Into a product.

WALLACE: (VO) There's a demand for fetal tissue, because doctors believe it may be the key to medical breakthroughs, cures for Alzheimer's and Parkinson's disease, diabetes and other illnesses. Some researchers use fetal cells, others need whole organs or limbs.

But no one on either side of the abortion debate wants fetal research to became an incentive for abortions. So laws have been passed to draw a clear line. A woman must decide to have an abortion before she's approached to donate the fetus. Abortions can't be altered to get better specimens. And above all, tissue can't be sold for profit. Despite all that, some businessmen have slipped is and turned human fetuses into dollars.

Mr. DEAN ALBERTY: This is purely for profit. Everything was about money.

WALLACE: (VO) Dean Alberty worked for two companies that acted as middle men, getting the fetuses front abortion clinics and shipping tissue to researchers.

Mr. ALBERTY: When I got the fetus. I'd already have a checklist telling me what specific organs they were looking for.

WALLACE: (VO) The law allows tissue companies to recover their costs. This government agency charges $100 per shipment. But take a look at what one private company is demanding. Opening Lines put [200] our this price list: $325 for a spinal cord, $550 for a reproductive organ, $999 for a brain. Alberty says he helped put together the price list.

Is there any way to justify these prices?

Mr. ALBERTY: No. There is not.

WALLACE: So what does this price represent?

Mr. ALBERTY: That represents greed.

WALLACE: (VO) Who runs Opening Lines? Dr. Miles Jones, the Missouri pathologist whose company handled Cindy's fetuses. Last year Jones not only mailed out the price list, but also this brochure.

"Fresh fetal tissue harvested and shipped to your specifications where and when you need it."

Mr. ALBERTY: That's correct.

Dr. JONES: Pleased to meet you.

Unidentified Woman #1: Nice to meet you.

WALLACE: (VO) We wanted to find out for ourselves how these companies do business. So posing as a prospective investor, a 20/20 producer met with Dr. Jones, who wanted to talk over dinner.

Unidentified Producer. What does a brain go for? What does a kidney or liver go for?

Dr. JONES: It's market force. It's what can you sell it for?

WALLACE: (VO) Over lobster bisque and roast duck, Dr. Jones explained the business of selling human fetuses.

Dr. JONES: We had projections of $50,000 a week. And you know, some weeks you can hit that and some weeks you can't. It's just a matter of being able to match supply and demand.

WALLACE: (VO) Dr. Jones said the average specimen costs him just $50 plus overhead, but that he charges an average of $250. The law only talks about recovering costs. But on a single fetus. Jones said he can make $2500.

Dr. JONES: That one fetus—the cost of procuring it is the same whether you get one kidney or you get two kidneys, a lung, a brain, a heart. It's the same cost that you've put into it.

Producer. But you keep charging?

Dr. JONES: Each researcher gets charged.

Producer: And each time that's just money in the bank?

Dr. JONES: Mm-hmm.

Mr. CAPLAN: It's flat out buying and selling, flat out profiteering. It's flat out saying, 'I'm going to charge [201] you whatever you're going to pay me.'

Dr. JONES: You can't kill the golden goose but you can certainly keep it well fed and it will lay lots of eggs for you.

WALLACE: A human fetus as a golden goose. I know you've been studying this business a long time, but does that shock even you?

Mr. CAPLAN: That kind of blatant, 'I'm going to get the maximum value of mining a fetus,' is—is—it's shocking.

Ms. SMITH: Just from a human standpoint, that's horrific.

WALLACE: (VO) When we told Cindy Smith about Dr. Jones, she also was upset.

Ms. SMITH: I did not donate that thinking ever that someone was going to profit. And that just really bothers me because that's not what I intended at all.

WALLACE. (VO) Alberty says some tissue companies went even further to boost their revenue. He says both companies he worked for, Opening Lines, and this firm, Anatomic Gift Foundation or AGF pressured him to get as much tissue as possible. And at times even told him to take it from fetuses women had not donated for research.

Mr. ALBERTY: Miles told me if they're not looking, they're not looking. Why don't you grab that pancreas? Even though it wasn't consented for.

WALLACE: And did you do it?

Mr. ALBERTY: Yes I did.

WALLACE: (VO) That's not all. Alberty alleges that abortions were altered to get better tissue. He says this clinic in Overland Park, Kansas, normally did early abortions with a suction machine. But when the fetus was being donated he says this special syringe was used which experts say puts women through longer more uncomfortable abortions. Where did the clinic get the syringes?

AGF was supplying these special syringes to the clinics?

Mr. ROSS CAPS: That's correct.

WALLACE: (VO) Ross Caps (ph) also worked for AGF. He and nurses who worked at the clinic confirm that women donating fetuses were given different abortions.

If the woman didn't consent, they wouldn't use the special syringe?

Mr. CAPS: No. They only used a special syringe if they knew I wanted the specimen.

WALLACE: (VO) Again, the law says abortions can't be altered to get tissue. Alberty who says he was originally pro-choice, was finally so disturbed by what he saw that he contacted Life Dynamics, a Texas pro-life group that paid him $10,000 to be an informant, while he continued to work in the tissue business. But Alberty denies making up stories to push a political agenda.

[202] Why should people believe you? Why shouldn't we believe that there are just some things that you've said that are part of this movement?

Mr. ALBERTY: I will stand behind my words until I die. I will go in front of Congress if I have to and testify under oath.

WALLACE: (VO) But Alberty's allegations are only part of the story. Some of the most troubling evidence we found came from our undercover conversation with Dr. Jones. Here

he explains how easy it is to talk a woman into donating a fetus.

Dr. JONES: You can do something that's got all the legal mumbo-jumbo in it and they'll sign it anyway. If you have someone trained to ask properly you can get 80, 90 percent consent rates.

WALLACE: (VO) His dream, he said, is to run his own clinic in Mexico where he could get a greater supply of fetal tissue by offering cheaper abortions.

Dr JONES: You can control the flow. It's probably the equivalent of the invention of the assembly line.

WALLACE: (VO) We showed Dr. Jones' comments to Congressman Thomas Bliley, Chairman of the House Commerce Committee.

Mr. THOMAS BLILEY: Terrible. Just absolutely terrible.

WALLACE: (VO) After hearing allegations of illegal activity Bliley's committee is now investigating four companies. He says he's found evidence that tissue is being sold for profit.

Mr. BLILEY: We are interested in that the people who do this recover their legitimate costs. It appears that it's more than that, that it comes down to trafficking in tissue pans, in body pans.

WALLACE: (VO) Bliley is pro-life, but even the most ardent pro-choice advocates, like Planned Parenthood president, Gloria Feldt, are disturbed by what we found.

Ms. GLORIA FELDT: It seems inappropriate. Totally inappropriate. Where there is wrongdoing, it should be prosecuted. People who are doing that kind of thing should be—should be brought to justice.

WALLACE: (VO) We wanted to talk with some of these fetal tissue businessmen. When we called Dr. Jones for an

interview, he hung up on us. But lames Barely (ph) of AGF, said his nonprofit company recently got out of the business. He maintained his fees, which were lower than Jones', were reasonable and that AGF never asked anyone to take tissue without consent. And he suggested Alberty is angry because AGF sued him over a business dispute.

Did AGF ever encourage doctors to alter the way they did abortions to get specimens?

Mr. JAMES BARTSLY: No. First of all, that would be illegal.

WALLACE: (VO) But wasn't AGF supplying those special syringes to get better tissue?

Mr. BARTSLY: Yeah. That's—that's—that's the logical conclusion that you would draw. I don't believe that was altering the abortion technique

WALLACE: Doesn't this special syringe add as much as 15 minutes to the length of the abortion?

[203] Mr. BARTSLY: I don't know.

WALLACE: Oh, sure you did-

Mr. BARTSLY: In some cases, perhaps. It takes longer.

WALLACE: (VO) Bartsly later sent us this letter saying the Kansas clinic already used syringes and that AGF provided special ones just to keep tissue sterile. The clinic finally severed its ties with AGF and later Opening Lines, but that came too late for Cindy Smith. All she thinks about is what happened to her twins.

Ms. SMITH: It's just wrong for someone to be making money off the dead. I didn't want somebody to profit off of my heartache. It makes me almost feel like the one good thing I did really wasn't that good after all.

WALLACE: Tomorrow, a congressional subcommittee will hold a hearing on fetal tissue trafficking. And Dean Alberty, the whistleblower from inside the business, will be the star witness. As for Dr. Miles Jones, he's been subpoenaed to testify but has not responded. Investigators say if he fails to show up, Jones could be held in contempt of Congress. Charlie:

CHARLES GIBSON, co-host:

Chris, if there are laws on the books on this subject, why is it still going on? Why hasn't something been done?

WALLACE: It's a question we kept asking in this investigation. We couldn't find anyone in the federal government enforcing those laws which is why tomorrow's hearing is such an important first step.

GIBSON: All right, Chris Wallace thank you very much.

And we'll be right back.

* * * *

APPENDIX C

OPENING LINES
A Division of Consultative & Diagnostic Pathology, Inc.
P.O. Box 508
West Frankfort, IL 62896
Phone: 800-490-9980
Fax: 618-937-1525

Fee for Services Schedule

Unprocessed Specimen (> 8 weeks)	$70
Unprocessed Specimen (≤ 8 weeks)	$50
Livers (≤ 8 weeks) *30% discount if significantly fragmented*	$150
Livers (> 8 weeks) *30% discount if significantly fragmented*	$125
Spleens (≤ 8 weeks)	$75
Spleens (> 8 weeks)	$50
Pancreas (≤ 8 weeks)	$100
Pancreas (> 8 weeks)	$75
Thymus (≤ 8 weeks)	$100
Thymus (> 8 Weeks)	$75
Intestins & Mesentary	$50
Mesentary (≤ 8 weeks)	$125
Mesentary (> 8 weeks)	$100
Kidney with/without adrenal (≤ 8 weeks)	$125
Kidney with/without adrenal (> 8 weeks)	$100
Limbs (at least 2)	$150
Brain (≤ 8 weeks) *30% discount if significantly fragmented*	$999
Brain (> 8 weeks) *30% discount if significantly fragmented*	$150
Pututary Gland (8 weeks)	$300
Bone Marrow (≤ 8 weeks)	$350
Bone Marrow (> 8 weeks)	$250
Ears (≤ 8 weeks)	$75
Ears (> 8 weeks)	$50
Eyes (≤ 8 weeks)	$75
Eyes (> 8 weeks)	$50
Skin (> 12 weeks)	$100
Lungs & Heart Block	$150
Intact Embryonic Cadaver (≤ 8 weeks)	$400
Intact Embryonic Cadaver (> 8 weeks)	$600
Intact Calvarium	$125
Intact Trunck (with/without limbs)	$500

Conads	$550
Cord Blood (Snap Frozen LN_2)	$125
Spinal Column	$150
Spinal Cord	$325

Prices in effect through December 31, 1999

Other Services

Laboratory Testing (Maternal Blood)

ABO/Rh	$25
HIV	$30
HBV (HBSag)	$30
HCV	$35
EBV(IgG)	$45
HbAlc	$30
RR	$22
Other: Call for Quote	
Material Phebotomyl (1 Serum & EDTA)-*No testing*	$30
2 or More Specimens from Same patient-Additional Charge	$100

Preservation

Media (RPMI or Hank's BSS)	$10
Media (Fetal Calf Serum)	$20
Media (MDM-Clutamone/HEPES Buffer)	$30
Media (DMEM-High Glucose)	$25
Media (Client Supplied)—No Charge	
Liquid Nitrogen (Snap) Fressing	$10

Packaging

Handling (1-6 specimens per shipment)	$5
Handling (7-12 specimens per shipment)	$10
Handling 13 or more specimens per shipment)	$15
Dry Ice (per lb.)	$1
Gell Packs (per pack)	$1

Special or Custom Services and Processing: Call for Quote

Shipping & Delivery—Client Responsible for ALL Shipping and Handling

OPENING LINES
A Division of Consultative & Diagnostic Pathology, Inc.
P.O. Box 508
West Frankfort, IL 62896
Phone: 800-490-9980
Fax: 618-937-1525

Dear "PREFIX" "LAST NAME"

Enclosed you will find preliminary information about OPENING LINES, your new source for quality fetal tissue. We hope this material will be helpful and allow you or your organization to begin utilizing our cost effective services.

OPENING LINES is a division of Consultative and Diagnostic Pathology, Inc. (CADP). Dr. Miles Jones formed CADP in 1989 to serve as his professional corporation. As the laboratory Director for P A Laboratory(PAL) and a former medical school pathology chairman, Dr. Jones is experienced in the needs of researchers. In 1997 an association between PAL CADP and P L Service led to the largest single organization providing histopathologic service for medical facilities providing reproductive choice for women.

OPENING LINES was formed to maximize the utilization of the fresh fetal tissue we process. Our daily average case volume exceeds 1500 and we serve clinics across the nation. This means we can provide you with the exact tissue to meet your needs.

OPENING LINES obtains and maintains appropriate confidential consent and basic medical histories for fetal tissue donation. All tissue is harvested and processed in complete compliance with local, state and federal rules and regulations. We adhere to all NIH guidelines.

We have simplified the process for procuring fetal tissue. We DO NOT require a copy of your IRB approval or summary of your research and you ARE NOT required to site

OPENING LINES as the source of tissue when you publish your work (we believe in word of mouth advertising; if you like our service please tell your colleagues and if you do not notify us and we will do our best to correct the problem).

Thank you and watch for our ads in the classified section of Science. We have a special gift at the end of the year for the first person who knows the source of all the opening lines.

Miles J. Jones, MD (FCAP), BCFE, BCFM

Prices in effect through December 31 1999

APPENDIX D

PROTOCOL FOR THE RECOVERY OF EYES

A. DONOR SPECIFICATIONS

1. AGE 15.22 WEEKS

2. GENDER: MALE/FEMALE

B. EYE RECOVERY

1. IDENTIFY THE. EYES

2. USING CURVED IRIS SCISSORS AND A BLUNT DISSECTION TECHNIQUE EXPOSE THE TENDONS AND ITS MUSCLE

3. TRANSECT THE MUSCLE IN THE AREA OF LATERAL, MEDIAL AND INFERIOR LOWER PART OF THE RECTUS MUSCLES

4. RETURN THE LATERAL SIDE OF THE EYE. EXPOSE THE OPTIC NERVE

5. USING A CURVED IRUS CUT TO THE BAR BACK OF THE OPTIC NERVE

6. REMOVE THE EYE BY USING FORCLIPS WITH TEETH, BY HOLDING ON TO THE OPTIC NERVE OR RECTUS MUSCLES

7. PLACE THE RECOVERED EYES IN STERILE DISH TO EXAMINE. IF ARE ANY LACERATIONS TO THE EYES.

8. IF LACERATIONS ARE ON THE EYES PLASE SEE RECOVERY SITUATIONS FOR DI VIATIONS.

9. PLACE EYE INTO PROPER MEDIUM RESEARCHER REQUESTS.

10. MAKE SURE SPECIMEN # IS ON THE SPECIMEN TUBE AND WRITTEN ON PROPER FORM.

PERI FILM TUBE-PLACE SPECIMEN TUBE INTO ZIP LOCK BAG WITH RESEARCHER NAME ON BAG.

TISSUE RECOVERY PROCEDURES

FETAL

I. Notification Of Needed Specimens: The number of specimens and donor criteria may be limited by the researchers. Specimens requested and other relevant procurement information would be provided by IIAM, usually on the Monday of each procurement week and on an ongoing basis.

a) Advance Notice—Specimens often requested on specific date, often by next day delivery (Federal Express), sometimes same day (e.g. Sonic or Sterling Courier).

b) Ongoing Procurement—Specimens, unusually difficult to obtain or prepare, accepted by researcher at any time during business hours or, as in the case with frozen specimens, may be procured and stored at will and shipped on specific date. Courier arrangements may vary depending on situation.

II. Supplies: Usually provided by IIAM and sometimes by the researcher. Technician is responsible for keeping inventory and for notifying IIAM in a timely manner if any item shortages. Inventory must be reported to IIAM by end of each procurement week. By the following Wednesday, the following supplies should be on hand:

a) shipping containers—at least 8

b) media—at least 1200 Mis

—special media may be required depending on orders

c) specimen containers—at least 75 Falcons (50cc) for multipurpose use

—at least 20 urine cups (125cc) for large specimens

—at least 20 small, crack resistant containers (6 to 16cc) for storage of frozen specimens

d) labels—Silver Milar Labels (about 200)

—assorted packaging and shipping labels where appropriate

—address labels

e) bags—zip-lock bags, equal to number of crack resistant containers, keeps container and label together since label will not stick at freezing temperatures

—16 "trash bags" used to double-bag ice for shipments

—10 - 15 "ice bags" to enclose specimen containers in waterproof environment

f) paperwork—enough procurement logs and shipping slips for a month, if possible

g) instruments—at least 5 complete sterile sets including: 8" thumb forceps, 3 1/2" mouse tooth forceps, and 4" scissors

—5 individually sterilized pans

h) ice—wet ice must be on hand for shipping fresh specimens

—use about 5 lbs per shipment

i) LN2 Please see Precautions for the use of Liquid Nitrogen

—Liquid nitrogen dissipates to gas rapidly at ambient temperatures.

—Keep at least 2 liters on hand at all times since freezing is usually "on-going". Also, frozen specimens can be stored directly in LN2 until dry ice is obtained for shipping. NOTE: SNFR (snap frozen) specimens are particularly valuable. Allowing LN2 to disepate and the subsequent

thawing of stored specimens could cost IIAM hundreds of dollars in service fees.

—LN2—suppliers in local area need to be established. Can often be obtained by the liter.

j) tape—maintain one full roll of masking tape and one-to two full rolls of clear packaging tape.

4) Liver—Gestation 15 to 20 weeks for fresh specimens and 15 to 24 weeks for SNFR.

Liver need not be intact and crushed fragments are acceptable. Remove gall bladder and Connective tissues.

5) Lung—Gestation 15 to 22 weeks for fresh specimens. Relatively large segments or lobes are required. If thoracic cavity is intact, split chest with scissors and remove heart/ lung enblock by cutting anteriorly through trachea and esophagus to vertebrae, then, grasping trachea with mouse tooths and applying tension, carefully separate lungs and heart with scissors from connective tissues and diaphram. Remove heart and thymus.

6) Eyes—Gestation 10 to 24 weeks depending on researcher. Eyes must be intact and specimens over 16 weeks must appear firm. Remove eyes carefully so as not to puncture with scissors. The older the gestation, the more durable the eye. Clean as much muscle and connective tissue off as possible. Do not be afraid to cut through bone in order to avoid damage to the specimen.

procure both eyes when possible and specify whether one or two in records because service fee may be per eye. not per pair.

7) Pituitary—Gestation 20 to 24 weeks. See Diagram. The most difficult to obtain tissue because of its small size and fragility. Great care must be taken when examining base of skull. Often times presence of pituitary is a function of how head is detached from body of fetus during D&E and

how badly head is crushed. If head remains attached to body, pituitary will likely be present. Also pit. can remain, even if head is crushed, if base of skull is intact where optic nerves enter brain. Pit. is positioned directly in center of small cavity created by two boney structures as shown:

Because the gland is being used to obtain luteinizing hormone (LH), it is necessary to determine the sex of the fetus whenever possible. Therefore as many remains as necessary should be retained to accomplish this task.

Do not attempt to remove pit. from skull. Instead, put as much of head as will fit in urine cup and fill to top with RPMI media. Make sure skull is cracked or split to allow cold media to contact gland, If you must trim skull to fit specimen container, do so by removing crown. The presence of other tissues such as brain is not necessary but may help maintain integrity of pit. cavity.

8) Tibia—Gestation 20 to 24 weeks. Knee and tibia must be intact although muscle damage is acceptable. Procure by using heavy scissors to cut through femur above knee, much like above the knee amputation (AKA) performed on adults. Place one (or two legs if they will fit) in Falcon tube with foot at top and cover completely with media. As with eyes, specify one leg or two procured from each donor.

9) Muscle—Gestation 10 to 16 weeks for SNFR. Skeletal muscle removed from leg prefered for ease of recovery. Remove skin, if possible, and procure in conjunction with kidneys. Amount of muscle should be similar in weight to, kidneys. It is not necessary nor is it efficient use of time to dissect out alot of muscle.

10) Brain—Gestation 16 to 24 weeks but the smaller the better. Important to confirm age via foot length. Brain tissue must be recovered under sterile conditions.

11) CNS—7-12 weeks (1st tri) Special training will be needed for 1st tri procurement.

V. Delivery of Specimens: Most specimens are sent to researchers via couriers for next day delivery. Some investigators, either local or out of state, may from time to time require same day delivery. The official description of package contents is "blood products (or tissue culture) for medical use".

Note: Please see General Shipping Instruction!!

a) Packaging; specimen containers are bagged and set in ice which is doubled bagged.

—specimen labels must be complete with IIAM number and indicate any history which may be of interest to researcher.

—all boxes must have address label in addition to any courier form.

—all boxes being prepared for Saturday delivery via Federal Express must be marked as such and have "Saturday delivery required" checked on Fed. Ex. Airbill.

—Most packages can be left at reception areas for courier pick-up but be sure to allow at least 1-1/2 to 2 hours before closing.

—Always record airbills, bills of lading, job and confirmation numbers commonly associated with couriers. Also retain receipt from courier.

—Always insure contents of package in an amount of $1,000.00 (or higher if instructed by IIAM.)

VI. Documentation and Procurement Records: It is imperative that accurate records be maintained, particularly for billing purposes, but also for problems which may arise later

concerning a particular procurement. Record keeping also enables us to evaluate productivity and to make informed decisions on procurement.

a) Procurement Log Record 'AKA' Shipping Slip: To be completed during procurement day. Advance notice will be given on the Monday or Tuesday proceeding each procurement week for all needed tissues and their recipient investigators. When advance notice is given, complete the top section of one procurement log for each of the procurement days, keeping in mind that researchers are permitted to change their requests at any time in advance of actual procurement.

b) Researcher is to receive complete donor information on his/her specimens with each shipment (Shipping Slip) Copy information pertaining to that researcher's specimens form procurement log. Although do not include the chart number to protect condidentiality of donor.

c) IIAM Donor Numbers—consist of a four digit number corresponding to the number on the IIAM Silver Milar label.

d) The source code for each source where tissue has been procured from must be documented on procurement log and shipping slip.

You may use the following key letters assigned to various tissue types:

P=pancreas
K=kidneys
M=muscle
N=lung
L=liver
H=pituitary/brain
B=tibia
I=eye
S=stomach
G-small intestine
E=spleen
D=whole head
O=blood

For specimens requiring differentiating between one versus two specimens procured per donor, such as with eyes and tibia, specimen letter designation must be preceded by a number 2 to indicate a pair of specimens and left blank when only one specimen was recovered.

Each source will have its own donor number series so it is not necessary to coordinate numbers between sources. On the other hand, it is important to maintain numerical continuity for each source. As an example; if all tissues from a particular donor are discarded for some reason, that particular donor number should be reassigned at some point in the near future. It does not matter if the number is out of order by way of time, as long as the number is used.

VIII. Preservation: Methods can vary depending on researcher, tissue, or both. IIAM was established to allow for greater flexibility in preservation techniques. For specifics, technician must consult individual researcher protocol.

a) Fresh Tissues: media will usually be prepared by the researcher under sterile conditions and may not contain antibiotics. Be sure to use the correct media when procuring fresh specimens.

—"Clean" technique—Clean instruments with water and let dry. One to three sets of instruments should be adequate if sterility is no factor. Sterilize instruments when finished procuring.

—Sterile technique—Sterile set of instruments must be used for each donor. Use sterile pan or drape but be aware that drape draws moisture away from specimen. Keep in mind that failure to maintain sterile field could jeopardize use of procured specimens.

b) Frozen Tissues: LN2 is used to snap freeze specimens. Although dangerously cold. LN2 is

inert, therefore preferred over methyl butane in a surgical setting. Use LN2 sparingly as it is expensive and cumbersome to obtain. LN2 is by far the easiest and fastest way to freeze tissue and it is universally accepted by researchers whan immediate freezing is required. Read and comprehend LN2 safety procedures thoroughly.

Freezing is used to preserve proteins or hormones which otherwise break down within minutes from cessation of blood circulation. Contaminates and other live cells are instantly destroyed in the freezing process .therefore sterile technique is not required nor is it desired because it takes more time. The faster the freezing the better. Some researchers may be more strict than others but generally the technician will have 10-15 minutes of warm ischemia to freeze.

Once frozen, tissues must be kept cold, either within LN2 refrigerator or stored on dry ice. The later is only possible when dry ice is on hand, however. Count on ordering dry ice for shipping specimens once during the week as determined by technician and researcher (refer to Supply Section II i). To be cost effective, try to ship the maximum number of specimens allowed by researcher.

VIII. Clean Up Work Area: Operating room/anteroom/work area must be kept in a clean condition. Do so by wiping down counter and sink and mopping floor. Autoclave all instruments used in procuring tissues after cleaning and wrapping instruments into individual sets.

SPECIMEN REJECTION CRITERIA

A. Donor Rejection Criteria

1. Age 8-22+.
2. Gender male/female.

B. Rejections for Feteal Tissue

1. Human Fecal in with the Fetal material.
2. IV Drug use.
3. Had sex with a gay partner.
4. STD in the past year.
5. Has received a organ transplant.
6. Did not sign a consent form.

PROTOCOL FOR THE RECOVERY OF BONE MARROW

A. Donor Specifications

1. Age 20-22+.
2. Gender male/female.

B. Bone Marrow recovery

1. Identify the lower limbs.
2. Remove all skin & muscle.
3. Using scalpel slice the bones of the Femur in half.
4. Using a blunt dissection technique scrap the inside of the Femur until all bone marrow is removed.
5. Place all bone marrow in Petri dish to examine.
6. Using Steri Spoon place bone marrow into sterile test tube, place medium if requested by researcher.
7. Make sure specimen # is on the specimen tube and written in proper form.

PROCUREMENT PROTOCOL TECHNIQUE FOR LIVER FOR LN^2B

Step 1: und.

PROTOCOL FOR THE RECOVERY OF INTACT FETUS

A. Donor specifications

1. Age 8 wks-22+.
2. Gender male/female.

B. Intact Recovery

1. Identify the Fetus.
2. Make sure Fetus is not alive.
3. Please call support staff if there is a live Fetus, for steps to take.
4. If Fetus is intact and not alive, call staff ASAP to place tissue.
5. Place specimen in sterile jar with cold RPMI on it. Until tissue can be placed.

PROTOCOL FOR THE RECOVERY OF LIVER FRAGMENTS

A. Donor specifications

1. Age 8-22+.
2. Gender male/female.

B. Liver Fragment Recovery

1. Identify the liver fragments.
2. Where to look for fragments.
   a. Move all tissue to one side.
   b. Look under planceter.
   c. Look for intestines, the liver may have fragments attached to it.
   d. Turn over all tissues, liver fragments may hide under blood clots.
3. Place all liver fragments in sterile petri dish with lid on it, so fragments will not dry out.
4. Remove any blood clots, any foreign material.
5. Place liver fragment is sterile tube make fragment on outside of tube.

6. Place medium to researchers request or freeze in LN^2 for the future use.
7. Make sure specimen is on the specimen tube and written on proper form.

PROTOCOL FOR THE RECOVERY OF LUNG

A. Donor specifications

1. Age 10-22+.
2. Gender male/female.

B. Lung Recovery

1. Identify the Thorax region.
2. Using curved iris scissors and a blunt dissection technique expose the lings, by cutting away the ribs in order to expose the lungs.
3. Transect the lung at the larynx then transect the lung at the decending aorta by the diagraph.
4. Remove the lung by holding on to the larynx.
5. Place the recovered lung in a sterile petri dish to be examined.
6. Place lung in proper medium researcher requests.
7. Make sure specimen # is on the specimen tube and written on proper form.

APPENDIX E

Excerpts from speech by Senator Bob Smith of New Hampshire on Senate floor, Wednesday, October 20, 1999, during debates on PARTIAL-BIRTH ABORTION BAN ACT of 1999.

* * * *

145 Congressional Record

Mr. SMITH of New Hampshire.

Mr. President, I thank my colleagues, the Senators from Ohio, Mr. DEWINE, and Alabama, Mr. SESSIONS, for their kind remarks. It has been a long, long struggle, and we are still not there yet. It is very frustrating to this Senator, who initially came to the floor in the mid-1990s, the early 1990s, in 1994 and 1995, where I found out these kinds of procedures were occurring, the so-called partial-birth abortions. I was shocked and I could not believe that in America we would be doing anything like this. This is America, I thought, we can't be killing children inches from birth. It makes no sense.

So I sought answers and talked to a number of people, including a nurse who had witnessed them. After getting all of that information together, I decided to write a bill banning partial-birth abortions. Here we are. Each time we have passed it here, it has been vetoed by the President of the United States, regretfully. I think it has been two or three times now. There will be another veto coming if we pass it again. But initially, when we started, we only had 25 to 35 votes on the floor because we were told it was only four or five times a year. Then we were told it was maybe 15 times a year. As the years progressed, we found out this is on demand and is not strictly for abnormalities at all but, rather, on demand, for any reason, if a woman chooses to have such a procedure.

* * * *

According to the American Medical Association, the partial-birth abortion method is never medically necessary-never medically necessary. According to the Physicians' Ad Hoc Coalition for Truth, partial-birth abortion is likened to infanticide and is considered an extremely dangerous procedure.

Let me quote from these physicians:

> The prolonged manipulation of the cervix introduces a serious risk of infection and excessive bleeding. Turning the child inside the womb using forceps risks rupture or puncture of the uterus, infection, and hemorrhage from displacing the placenta. Inserting the scissors-a blind procedure-risks cutting the cervix.

That is one doctor.

Another one says:

> Beyond the immediate risks, partial-birth abortion can undermine a woman's future fertility and compromise future pregnancies.

Many pro-abortion advocates have publicly stated their opposition to the partial-birth-abortion technique. Warren Hern, the author of the Nation's most widely used textbooks on late-term abortions, said:

You really can't defend it. I would dispute any statement that this is the safest procedure to use.

* * * *

With all that testimony from within the industry-dirty, yucky, not protecting the health of the mothers-why is it still going on? Because there is another dirty little secret, and it is called fetal tissue marketing. We will take a look at this chart.

I want everybody to see what happens in this dirty little secret of the abortion industry. I want my colleagues to know this is the abortion industry in general, but abortion is abortion. There are different types of abortion. Partial-birth abortion is what is on the agenda today. But fetal body parts marketing is what I am talking about.

A woman comes into an abortion clinic. It could be Planned Parenthood. She goes into the clinic, and she is talked to, advised to have an abortion. But what she may or may not know is that inside that clinic in a little room somewhere or some office that is not necessarily visible to her, is the harvester, the wholesaler, the person who is going to take her baby, cut it into pieces and sell it.

They are going to say: Oh, no, no, no, nobody is selling any babies. Listen to what I have to say, and then you tell me.

The wholesaler and the harvester is in the clinic. This poor woman, this mother, this woman who has probably gone through unimaginable trauma, is now faced with this little secret because she has to sign a waiver that allows them to do it.

You have the harvester now who is in that building. Anatomic Gift Foundation, Opening Lines-those are the names of a couple of the wholesalers.

What happens? We will get into that in a few moments.

But here is the buyer over here. If you are pro-life, you will be pleased to know, I am sure, that maybe a university in your State, Government agencies to which you are paying taxes, pharmaceutical companies, private researchers, and research organizations are buying body parts.

How does this work?

Here is step 1. The buyer orders the fetal body parts from the wholesaler/harvester. The buyer says: We need a couple of eyes, or whatever. The abortion clinic provides space for

the wholesaler and harvester in the clinic where that woman goes to procure fetal body parts. The wholesaler/harvester faxes an order to the abortion clinic, faxes an order to the clinic, and says: We need this, and we need this, and we need this. The wholesaler's technician harvests the organs: Skin, limbs, whatever, from aborted babies.

Now, bear in mind how gruesome this really is. This is the abortion industry, ladies and gentlemen. Here is a woman coming into that clinic, thinking she needs an abortion. She is advised to have it. And these people are sitting around the room, the harvesters. When they are looking at that woman, there is a living child there that has not been aborted yet, and they are placing orders for body parts-placing orders for body parts-before the child is even dead.

The wholesaler's technician harvests the organs. Then the clinic "donates" fetal body parts to the wholesaler/harvester, who in turn pays the clinic a "site fee" for access to the aborted babies. Then the wholesaler/harvester "donates" the fetal body parts to the buyer. The buyer then "reimburses" the wholesaler/harvester for the cost of retrieving the fetal body parts. We are going to get into a little more detail on this.

You might say: This is a debate about partial-birth abortion. What does the sale of fetal tissue have to do with partial-birth abortion?

First, like partial-birth abortions, the selling of fetal tissue is immoral and unethical. It is illegal. And it is a reprehensible, dirty practice that is going on in the shadows of the industry. It is a practice I had never even heard of. Again, I could not believe this was going on. But it is.

Second, it is a practice that very graphically shows how this industry has gone far beyond the ethical boundaries that even most pro-choice Americans would find repugnant.

Third, like partial-birth abortion, the industry has taken the practice of selling fetal body parts, which is illegal under Federal criminal law, and created a loophole to allow them to do it.

In partial-birth abortion, they use the head loophole. In other words, what I mean by that is: Arms, feet, body, neck, heart, toes. That is not birth. That is not the baby-until the head comes into the world. Then it is a baby. Really? It is a legal mumbo jumbo, as Senator SANTORUM talked about. It is a bunch of garbage. It makes lawyers around the country very rich, and it allows these clinics to kill our children.

I am sure the legal team that came up with the head loophole is very proud of themselves, just as we have the fetal harvesting loophole. In a sense, we call it "donations" or "reimbursements" rather than selling parts. They are both loopholes to hide the facts.

Stabbing a baby in the back of the head and sucking its brains out is illegal; it is murder; it is infanticide-whether that child is sitting in a play pen or whether that child is trying to exit the birth canal to become a member of this world. But its head is conveniently, under this stupid legal definition, "stuck" in the womb. And it is not stuck; it is held there. And they call it medicine. We have people standing down here saying: This is medicine. We're doing this for the health of the mother. Really?

Let's go back to the sale of fetal body parts. I have here the United States Code. Here is what the United States Code says:

> Prohibitions Regarding Human Fetal Tissue.
>
> That is the topic. That is the heading right here in the United States Code.
>
> Purchase of tissue. It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any

fetal tissue for valuable consideration if the transfer affects interstate commerce.

Criminal penalties for such violations.

In general, any person who violates subsection—

The one I just referenced—

shall be fined in accordance with title 18, U.S. Code, subject to paragraph 2, or imprisoned for not more than 10 years, or both.

The term "valuable consideration" does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.

It is against the law, ladies and gentlemen, my fellow Americans, and colleagues, it is against the law to do this. And they are doing it every day to our children-every day. So 10 years in jail if you sell human fetal tissue. That was signed into law, ironically, by President William Jefferson Clinton. It took effect on June 3, 1993.

But the lawyers went to work, as only lawyers can do. They found a loophole: How can we sell this tissue, make a profit at the expense of this poor woman victim, and get it to research, and hide it all by calling it research? How do we do that without getting caught and getting our tails thrown in jail?

That was the question. So they found it in section D(3) which:

> . . . allows reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.

That is the loophole I just read out of the book.

But because there is no documentation, no disclosure, no government oversight, this section has become a gigantic loophole to allow this industry to engage in the illegal trafficking of body parts of fetal tissue without any prosecution.

Mr. President, we need a big beam of light to shine into this industry, to get into the darkness and find out what is going on in this for-profit industry. We need some sunshine. We need it so badly. I am not looking to get into the medical records of individuals. That is not what I am about. But I believe if we are going to allow the use of fetal tissue from aborted fetuses—I mean aborted fetuses for research, which I believe we should not-if we are, we need at least a minimum of documentation to ensure this tissue is not being sold in violation of Federal criminal law.

Is partial-birth abortion used for this? I don't know. Why not find out? Let's shine the light in. Let's talk about a few things that might make you think, however, that there is a link here. Your call. You listen. You make your own determination.

Let us talk about dilation and evacuation, the so-called D&E, for a moment. This method, which is performed during months 4 to 6, 6 months, is particularly gruesome in that the doctor must tear out the baby parts with a pliers-like instrument. Literally disassembles it in the womb. It is horrible. No wonder they are angry when they get home and sick, sick before they start. Then the nurse gruesomely has to take all these body parts of this child who was torn apart in the womb and reassemble them in a pan to be sure they got it all. That is the first method.

I will just ask you to think, as we go through this, if you are in the business of selling body parts, how is that going to work with your buyer, if all the body parts are torn apart? I think you would say, well, probably it isn't going to be much good. There might be some tissue, but if you need intact organs, disassembling the organs ought to lead you to believe,

reasonably, I think, they are probably not very good. If you need a liver and it is all chopped up in this procedure, it is probably not going to do you much good. So the D&E method is not real good for selling body parts. But that is one type of abortion.

The next is the saline abortion. This occurs after the first trimester. The abortionist injects a strong salt solution into the amniotic sac and, over a period of an hour, the baby is basically poisoned and burned to death in her mother's womb. That is the saline solution. So now I ask you again, if you are selling body parts, and the buyers want good body parts, good condition, that is not going to do a lot of good. That is not going to make your product very marketable. That is probably not a good method either.

The next one is a little more grotesque, if you can imagine that. This is called the dig method, or digoxin method. It is called harpooning the whale inside the industry. You see, even in the industry they can't even be respectful to the child or even the woman in some cases, the mother. They use terms such as that, "harpooning the whale." The abortionist inserts a needle containing digoxin into the abdomen of the woman. In order to make sure the doctor hits the baby and not the woman, which would be lethal for her as well, he must watch to see the needle begin moving wildly. And when it does move wildly, he knows he has harpooned the whale and can push his needle all the way through and kill the baby. This abortion procedure is probably the least desired method for the body parts people because the baby's organs are, in essence, liquefied by this horrible poison. They are basically worthless to the body parts market.

Those are three types of abortions. They have nothing to do with partial-birth abortion. I use these examples of three types of abortions to show you they basically make the sale of body parts worthless for the most part. Some tissue I am sure they can use.

So where are they getting these things? Ask yourself, what have we been talking about all day? How can we get a good specimen, a baby whose organs are intact, a good cadaver? You can do it two ways. You could have a live birth and kill it, or you could have a partial-birth abortion, kill it that way, and damage only the brain so the rest of the body is good for research.

Now, is this happening? Shine the light in. There are going to be people who say that I have made this link. I will tell you right now, I haven't. I am asking you to shine the light into this industry. Bring in the sunshine. Let's look in the clinics. Let's find out what is going on. Are they being used? We will take a look in a few moments at some of the things going on here. I ask you whether or not you think they might be getting these parts from some other source of abortion other than partial-birth abortions. I don't know. I know one thing. It is a black market. It is illegal. It is unreported, and it is unregulated. If it is the last thing I do before I leave this body, I will change that. I am going to change that.

The good news is abortion rates are down. That is good. But the problem is, because they are down and because the doctors aren't doing them, they have to make it up somewhere. The industry has to make up the money. They have to make it up. Where do they do that? By selling body parts. That is where they make it up. It is really the dark side of the industry.

This is the testimony of a woman who calls herself Kelly, a fictitious name. Kelly was working and received a service fee from the Anatomic Gift Foundation, which is the wholesaler, the harvester, of these organs.

Listen to what Kelly had to say. Kelly fears for her life. That is why Kelly is a fictitious name and why Kelly is not being identified.

"We were never employees of the abortion clinic," Kelly explains.

That is when they would sit in the clinic, in this room, and the lady comes in pregnant.

"We would have a contract with the clinic . . . ."

Listen very carefully to what I am saying. A woman comes in. I am sorry. I am confusing the stenographer. I will go through the quote first and then explain it.

We were never employees of the abortion clinic. We would have a contract with an abortion clinic that would allow us to go in to procure fetal tissue for research. We would get a generated list each day to tell us what tissue researchers, pharmaceuticals and universities were looking for. Then we would go and look at the particular patient charts. We had to screen out anyone who had STDs or fetal anomalies. These had to be the most perfect specimens we could give these researchers for the best value that we could sell for. Probably only 10 percent of fetuses were ruled out for anomalies. The rest were healthy donors.

To capsulate, a woman is in the abortion clinic, and basically they are eyeing up the source. It is like a hunter going out and seeing, I guess in this case, a trophy doe rather than a trophy buck, and saying, there is a good specimen there. I hope that baby is fairly normal so I can sell the body parts. And they looked at the patients' charts while this child was alive in the womb. This girl might change her mind on whether to have this abortion, and nobody is helping her change her mind or asking her if she would like to change her mind. Oh, no, we have a contract here. We have a patient chart here. We have somebody looking at her, looking at the trophy and then saying: Hey, this chart looks real good, this gal has what we want; she has a normal baby there. My goodness, a perfect specimen, the most perfect specimen we could find. So give the researchers the best value we could

sell for. Her words. Probably only 10 percent of fetuses were ruled out for anomalies; the rest were healthy donors. So said Kelly.

Let's look at a work order. This is a work order. Mailing address, shipping address, everything. OK. Tissue, fetal lung; one or both from the same donor, 12 to 16 weeks. Preservation: Fresh. Gestation: 12 to 16. Shipping: Wet ice. Constraints: No known abnormalities. We don't want any babies who have any problems. Obtain tissue under sterile or clean conditions.

Let me ask you a question, colleagues. In this filthy, dirty, disgusting business we are talking about, do you really think you can get a perfect lung, with no cuts and no abnormalities, by chopping up the child in the womb or putting all of this poison in the body, in the womb, in the embryonic sack? Or do you think it might be possible that the best way to get a normal lung is to bring a child through the birth canal in perfect condition, damaging only the brain, or perhaps even a live birth? Oh, you think that would not happen? Well, we will talk about that in a little while. Oh, yes, it happens.

Look here: "Normal fetal liver." A normal fetal liver is not one filled with poison. It is not a liver that has been chopped up. It is a normal fetal liver. There aren't too many ways you can get a normal fetal liver in an abortion clinic. "Dissect fetal liver and thymus and occasional lymph node from fetal cadaver within 10 minutes of the time it is extracted, and ship within 12 hours." "No abnormal donors."

There is a whole lot of money in this business, folks. With abortions down, they will charge a woman anywhere from $300 to $1,000 for an abortion and make several thousand dollars on the parts of her child. But she doesn't get any of that money, you can bet on that.

Let's look at another work order. The National Institutes of Health gets the delivery here. If you are pro-life, you will be

"pleased" to know they are getting some of this stuff. "I would prefer tissues without identified anomalies; in particular, bone anomalies."

Let's look at another one. This is just the tip of the iceberg. I could give you hundreds of these work orders. I am picking a few of them.

Now, this one is particularly disturbing-as if the others weren't. Here is the donor criterion on this. We are talking about whole eyes. Now, the donor criterion is that the child be "brain dead." Think about that for a minute. Why would you put that on there? Are we to assume this child is going to be delivered to them live?

I assume if a child has been aborted and it is being sold, or provided, or donated, or whatever it is, to some research center, we ought to assume it is dead. Well, they are not assuming it. They are not assuming it at all. They are directing it: Make sure it is "brain dead." If anything else is moving, that is OK. Maybe the heart is beating, and that is OK. But make sure it is brain dead, noncadaver, and post 4 to 6 hours, any age. Again, no contagious diseases. "Remove eye with as much nerve"—they go into that. Federal Express-send it out. That is against the law.

So let's say a girl walks into a clinic and sits down to wait. I want to try to paint you a picture of what happens. A girl walks into a clinic and sits down to wait. A fax comes in, and the fax contains a list of what body parts are needed for that day. So here she comes. She still hasn't had the abortion. But they now have this list-the abortionist perhaps, but I don't know; I have not seen this. Perhaps he looks through the glass window, and maybe there is a one-way glass. He looks out into the waiting room and stares at her stomach and knows this is the very same child who is very much alive now, perhaps even moving and kicking; he knows that child will be dead in a few moments, and they already have the work

order. They have already checked the charts, already know it is normal; they already know what they need. They are already planning it all.

If that is not sick, if that doesn't bother you, then, man, there is something wrong with the people in this country-big-time wrong.

After her abortion, in a matter of 10 minutes, if it is done then, that baby can be shipped on wet ice to researchers across the country, just like going into a supermarket and buying a piece of meat.

There are four illegal and immoral things happening with this issue. First, as I said before, current law prohibits receiving any consideration, valuable consideration, from the tissue of aborted children for research purposes. This is happening. So that is wrong. Violation No. 1.

Secondly, it has been reported that, in fact, live births are occurring at these clinics. Oh, that is a dirty little secret we don't want anybody to talk about. Let's not talk about that. It doesn't happen a lot, but in 100 abortions it could be as few as 5, 6, maybe 7, maybe 10 times-live births. Oh, boy, that is a real problem. What better way to get a good sample than a live birth?

It is the law of every State to make every medical effort to save the life of that child. I am going to show you proof that that isn't done. It is not happening in every case.

Thirdly, our tax dollars are being used to fund Planned Parenthood on the one end to kill the children, and NIH on the other end to do research on them. If you are pro-life, as I am, you won't like it; I don't like it. I am going to do something about it if it is humanly possible.

In 1996, Planned Parenthood received $158 million in taxpayer dollars. Who knows how much in addition is being funneled through the valuable consideration loophole from

NIH research labs. The taxpayers and Congress deserve an answer. The chart shows Federal funds supporting Planned Parenthood Federation of America and its affiliates, in fiscal year 1994, $120 million; in 1995, $120 million; in 1996, $123 million. Add it all together. It is $158 million.

The fetal body parts industry is a big business, ladies and gentlemen, and it is not being honest. Mothers are not being given their consent forms sometimes. Sometimes they are. And the wholesalers are not forthright about how they ship the babies, among other things. These people are in the business of selling dead humans, so I guess maybe we should not expect too much in terms of ethics.

There are two statutes that govern fetal tissue research, and both statutes were passed as part of S. 1 in 1993, the National Institutes of Health and Revitalization Act of 1993. I was one of four Senators who voted no, as usual, because I don't believe Government should be doing any research on induced abortions, aborted fetuses. Up until 1992, we had a President, George Bush, who agreed. But Bill Clinton changed all of that. But even President Clinton, who signed the fetal tissue research Executive order as one of the first acts of his Presidency, was unwilling to accept the sale of fetal tissues.

Prior to 1993, there was a moratorium prohibiting Federal funding of fetal tissue research. That was overturned by President Clinton by Executive order on January 22, 1993. And Senator KENNEDY introduced S. 1 to codify Clinton's Executive order. Part of that was because this "statute permits the National Research Institutes to conduct support research on the transplantation of human fetal tissue for therapeutic purposes." The source of the tissue may be from an abortion where the informed consent of the donor is granted. This statute allows for Federal money to be used in fetal tissue research. And you will see that NIH is involved in this.

The second statute made it unlawful to transfer any human fetal tissue for valuable consideration. I talked about this statute. In other words, it is illegal to give monetary value to the various body parts being sold. And it is illegal to profit from the sale. The guilty receive fines and imprisonment for not more than 10 years. As long as the tissue is donated, it is OK. But large amounts of cash are changing hands.

Again, abortion clinics and the wholesalers are making a killing-that is a sick pun, a killing-literally with the abortion and with the sale of human baby parts.

Listen to what one of the leaders of fetal body parts marketing said in an interview with a pro-life publication: "Nearly 75 percent of the women who chose abortion agree to donate the fetal tissue."

Granted, this organization claims to only operate out of two abortion clinics. But if you apply their statistic nationwide, for theoretical purposes, you are talking about a lot of aborted babies being sold for cold, hard cash.

In addition, the consulting firm of Frost & Sullivan recently reported that the worldwide market for sale in tissue cultures brought in nearly $428 million in 1996, and they predict that market will continue to expand and will grow at an annual rate of 13.5 percent a year, and by 2002 will be worth nearly $1 billion. That is a whole lot of money at the expense of these unfortunate women.

In a taped conversation with the wholesaler, she says they do not buy the tissue. That is the way it works. That is really what happens.

In a taped conversation with another marketer of fetal body parts, they admit to try to get abortion clinics to alter procedures to get better tissue, which is a violation of Federal law. This person then offers discounts for being a "high volume" user, and that the buyer can save money by purchasing their cost-effective, lower-range product.

Let's look now at a chart offered by Opening Lines, and you tell me if this isn't a business transaction for profit. Bear in mind the sale of body parts is illegal. You are not supposed to receive any consideration. Well, then maybe you could tell me why-this is one of those wholesalers, Opening Lines. Maybe you could tell me why they have a price list. Has anybody ever done any marketing before?

Look. You can get a kidney for $125. You can get a spinal cord for $325. Then down at the bottom, it says prices in effect through December 31, 1999. That is a price list, ladies and gentlemen. I suppose there will be somebody who will come down here and say, "Well, Senator, that is not a price list. That is fee-for-service."

That is what it says at the top.

What is the service? You say: Well, you know it is expensive. You have to take the brain out, or you have to take the spinal cord out. OK. We take the spinal cord out. I am not a doctor. I am not going to pretend to be. I am not going to make any reference to how difficult that might be.

But let's assume to remove a spinal cord from a child is a difficult operation. They are charging $325 for the spinal cord. I would think it would be safe to assume-I am not a doctor, but if you want to send an intact cadaver, that doesn't involve any research at all. Does it? They don't have to cut anything. We will just ship that along. But it cost $600. It doesn't have anything to do with what the service is in terms of finding the spinal cord and getting it out. It has nothing to do with it at all.

I will tell you why this is $600-the cadaver. Because when they get the cadaver; they can get the spinal cord; they can get the eyes; they can get the nose; they can get the ears; they can get the liver; they can get the thyroid, whatever they want. That is why it is $600. That is why the price list is there. You can even get a discount if you buy enough.

This is a dirty business. It is bad. It stinks.

The brochure boasts that it offers researchers "the highest quality, most affordable and freshest tissue prepared to your specifications and delivered in the quantities you need when you need it."

Here is the copy of the brochure. I didn't make it up. This is their brochure, Opening Lines. This is what they said.

Think about it. "We are professionally staffed and directed," it says. "We have over 10 years of experience in harvesting tissue and preservation. Our full-time medical director is active in all phases of our operation. We are very pleased to provide you with our services. Our goal is to offer you and your staff the highest quality, most affordable, and freshest tissue prepared to your specifications."

Please tell me how you can do that if it is simply a matter of taking an aborted child and sending it off to a research laboratory somewhere.

My colleagues and American people, I don't know what is going to happen to this country. But I just want to recap for you what has happened here.

A woman comes into a clinic, an abortion clinic. She is pregnant. She is in trouble. She needs help. They already have somebody who has read her charts. They know her baby is normal. They know it has no abnormal functions. They know they need to get that baby out of there quickly. They know they can't do damage to the cadaver. They cannot do damage to the fetus. They can't poison it. They can't cut it because, to their specifications, they need perfect eyes, or they need perfect skin, or good lungs, even the gonads, the ultimate. The poor little child just has no privacy here. Limbs, brains, spinal, spleen, liver, all of it, price list, all the way down-they have it all figured out.

And they have the gall to stand out here and tell you these clinics care for the women. They care for the profit. They cannot make it because abortions are going down. They can't charge these women any more because they are too poor to pay. So they take it from their bodies, from the children. It is a filthy, disgusting, dirty business, and it needs to be exposed and eliminated.

How much more should we tolerate in this country? How much more degradation must these children absorb and endure?

Look at that list. Look at it and tell me that is fee-for-service-to your specifications, your specifications. You give us the order, and we will make sure you get perfect eyes that weren't hurt by any abortionist's knife, or they weren't poisoned by digoxin, or saline. Oh, we will make sure. We will get you a live birth, if we have to, or a partial birth, if we have to. We will get it for you because there is a lot of money in it. That is why we will get it.

This is a filthy, disgusting, dirty business.

People say: Oh, you are antiresearch. I am not antiresearch. If a woman has a miscarriage and wishes to donate that miscarried child to research, she has every right to do that. I am proresearch.

The Department of Health and Human Services under President Bush determined there was plenty of tissue available through spontaneous abortions and ectopic pregnancies to satisfy research needs-plenty. But oh, no, we have to get into this. We have to make up for the loss of revenue because, thank God, abortions are starting to go down in this country. We have to make it up. Doctors don't want to do them anymore. It is a dirty business, they say. I'm sick when I go home. We are going down a slippery slope, my fellow Americans.

* * * *

. . . This is a story from Kelly. A short paragraph, what she said. It is very difficult for me even to read it, but you need to hear it.

The doctor walked into the lab. This is in an abortion clinic. Kelly is the wholesaler for the fetal tissue. She is the person who has to take this fetus and do what has to be done to it to get it to the supplier.

The doctor walked into the lab and set a steel pan on the table. "Got you some good specimens," he said. "Twins." The technician looked down at a pair of perfectly formed 24-week-old fetuses, moving and gasping for air. Except for a few nicks from the surgical tongs that had pulled them out, they seemed uninjured.

This is pretty difficult. I have witnessed the birth of my three children, so forgive me if I have a little trouble.

The wholesaler, Kelly, said, "There is something wrong here. They are moving. I don't do this. That's not in my contract."

She watched the doctor take a bottle of sterile water and fill the pan until the water ran up over the babies' mouths and noses. Then she left the room. "I couldn't watch those fetuses moving. That's when I decided it was wrong."

So the abortionist, twin live births, 6 months-the little girl I spoke to you about earlier who wrote to me was born prematurely at 5 months. Two little twins drowned in a pan so their body parts could be sold because they had an order for the body parts. America.

* * * *

Warren Hern is the author of the most widely used textbook on abortion procedures. Dr. Hern says, in this article:

> A number of practitioners attempt to ensure live fetuses after late abortions so that genetic tests can be conducted on them.
>
> There is a link. They say there is no link? There is one.
>
> It is his position that practitioners do this without offering a woman the option of fetal demise before abortion in a morally unacceptable manner since they place research before the good of their patients.
>
> (Mr. SANTORUM assumed the Chair.)

Here is an admission from the industry itself that when they want to-I am not saying all do it, I am saying some do it-when they want to, practitioners can do this. They can ensure a live birth to fall within that 10-minute window, to get that child chopped up quickly and on ice so those limbs are better for the researcher and worth more money. You don't want any abnormalities, don't want any problems.

* * * *

You will notice from these charts I have been putting up that many of the highlights suggest the baby be put on ice within 10 minutes of exiting the womb. I mentioned that earlier.

Stop and think about this. If you do any of the other types of abortions-saline, digoxin, and these other procedures, D&E-what are you going to get? You are going to get something that is going to be an abnormality. No abnormal donors. Within 10 minutes, we want it on ice.

The point I am trying to make is, there are only two ways you can get a baby, a fetus, on ice that quickly. One is a live birth; you instantly kill it. Another is partial-birth. If there is

another method, I am open-minded. I would like to hear about it. Maybe somebody has it.

Let me read a letter I received today. This letter is pretty devastating. I want you to think about this 10 minutes on these charts. Within 10 minutes, we need to be able to ship it to give you no abnormal donors, to make sure the fetus is in good shape:

This is from Raymond Bandy, Jr., M.D., Dallas, TX:

> Dear Senator SMITH: As a physician and pastor in the Dallas Texas suburb of Lewisville, I was shocked and outraged several months ago when my friend Mark Crutcher invited me to the offices of Life Dynamics to review for him from a medical perspective of several requisitions for fetal tissue and body parts.

There were 2 areas particularly disturbing: No. 1, It was almost unfathomable to be reading requests for arms, legs, brains, etc., from aborted babies. Leading institutions in our country with research scientists requesting in mail-order catalog format, body parts from babies killed in abortion clinics.

Leading institutions were requesting these parts.

No. 2, My attention was drawn to the fashion in which the requests were made. Over and over again the requests would mention that the tissue must be "fresh"—

It says ship on wet ice. Another one says fresh, remove specimen and prepare within 15 minutes.

This is the process, a doctor talking now:

> (a) The baby must in some fashion be killed in its mother's womb. (b) The baby must then be extracted from the womb. (c) It must then be delivered in some fashion to a technician who would then proceed to amputate limbs; extract eyes, brains, hearts, and then process them; (d) all within 10 minutes. I am not an

> abortionist, nor have I performed an abortion, but to require these procedures to be accomplished in 10 minutes, means of necessity that the baby be extracted as close to life as possible, and would lead to in many cases babies . . . being born living, in order to be able to have them on ice, or otherwise processed within this short period of time.

As a community physician, I find this barbaric, cruel, evil, and intolerable to the greatest degree. This is a return to the medical practices of the "Nazis" of 1940s. . . .

Can anyone with even the most remote conscience, or moral decency, tolerate this practice?

He closes with that.

Here is a doctor. He is telling us and he is reinforcing everything I have said. Fresh, wet ice, no known abnormalities; get it on the ice. How do you get a fetus that is not chopped up, that is not poisoned? There are only two places. I talked to you about both of them: Live births, partial births.

The dirty little secret is that Planned Parenthood takes Federal taxpayers' dollars. American workers, especially pro-life workers, all of us-but those especially who are pro-life, I am sure, would be opposed to it-are having money taken out of their paychecks to pay for the marketing of babies' body parts. I talked about the $158 million grant from the Federal Government for Planned Parenthood, NIH, $17.6 billion in this year's labor bill-not all for that but just in the bill.

I am not against the funding of the National Institutes of Health, but I think when research is being conducted by the Government, where taxpayer dollars are involved, there is a much higher ethical standard to meet.

In addition, universities receive Federal funding, lots of it. In fact, there are some universities that receive Federal funding specifically for fetal tissue research.

I want to point out one chart that I did not highlight before because this really drives the point home in terms of whether or not there is any particular reason to believe that in the industry they are looking for live births or partial births.

Look what it says on this memo: "Please send list of current frozen tissues." And they go down the list: Liver and blood and kidney and lung, and all this down here. And then what does it say? No digoxin donors. "No DIG." That is the term for digoxin donors.

I want you to understand this and think about this: This is an order form. They are saying here: We don't want any digoxin babies.

Well, why don't they want them? Because they cannot sell them. The parts are no good. It is in their own writing. They are incriminating themselves. They are violating the law, and they ought to be prosecuted.

Shine in the light. Bring in the sunshine. Live births are a big problem, but DIG is not good for research. Abortion clinics and harvesters are also deliberately hiding the fact that they are shipping these parts all over the United States. They even use vague language to trick and deceive shippers such as Federal Express who will not do it, to their credit. But they are not told. They are hidden. One marketer says: "We've learned through the years of doing this" how to avoid problems with shippers like Federal Express.

But they have. If you are violating the law, you do everything you can.

As I have gone through this now for I don't know how long here on the floor, you probably say to yourself: Could it get any worse? Can it be any more humiliating?

We have covered pretty well what is happening to the child. Recapping: A woman, pregnant-abortions are down, the industry is losing money, and they can only charge so

much. So they find a buyer of the body parts of the fetus. There it is: "Fee For Services." As I said before, $600 for a cadaver, $125 for this, $75 for that. The lower numbers are probably so common that they are not worth much. So they sell the body parts. Then they do unimaginable things to the emotional life of this unfortunate woman who is in so much need of help and counseling.

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